

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of : SCHELLER, Gregg, et al.
US Application No.: 10/625,434
Filed: 23 JULY, 2003
Entitled: Device for Radial Optic Neurotomy
Examiner: UNKNOWN
Art Unit: UNKNOWN

January 7, 2004

PETITION TO MAKE SPECIAL PURSUANT TO 37 CFR 1.102(d)
(BASED UPON ACTUAL INFRINGEMENT)

TO THE COMMISSIONER OF PATENTS AND TRADEMARKS,

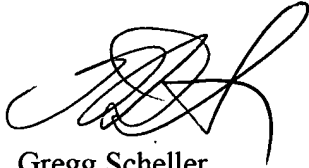
COMES NOW Gregg Scheller, co-applicant of application number 10/625,434 filed JULY 23rd, 2003, entitled "Device for Radial Optic Neurotomy" currently not yet assigned within an Art Unit or to an examiner, and does hereby declare to the best of his knowledge that there is (1) an infringing device and product on the market manufactured by Dutch Ophthalmic USA, of Kingston, NH, USA under the model and name 1293-L Spaide CRVO Knife, (2) that a rigid comparison of the alleged infringing device and product with the claims of the application has been made and that in my opinion claims 1, 2, 5, 6, and 13 are infringed by the aforesaid product and method claims 18 - 20 are infringed by use of the aforesaid product, and (3) that I have good knowledge of the prior art. Included herewith is an advertisement copy showing the aforementioned product from the aforesaid infringer which is incorporated into this petition. The aforementioned product comprises a blade having an asymmetrical "V" shaped tip, said "V" shaped tip having a point and a broad portion, a first leg of said "V" shape having a sharpened edge, and a second leg of said "V" shape having a dulled edge and a tip holding shaft having a central axis, a first end, and a second end attached substantially near said broad portion of said "V" shaped tip and a depth gauge positioned substantially with said blade whereby depth of penetration of said blade is monitored, all as described in the aforementioned claims of the present application.

Applicant has herewith filed his information disclosure statement, made of record, which cites all references which are deemed most closely related to the subject matter encompassed by

the claims.

I, Gregg Scheller, Applicant, hereby request that my patent application entitled "Device for Radial Optic Neurotomy" be made special with an expedited examining procedure and process pursuant to 37 C.F.R. 1.102(d) immediately upon arrival of this document at the United States Patent and Trademark Office. Enclosed is the required fee of \$130.00 pursuant to 37 CFR 1.17(i).

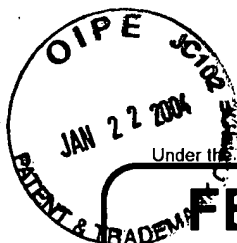
I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.



Gregg Scheller
17820 Suzanne Ridge Drive
Wildwood, MO 63038

Date

1/14/05



PTO/SB/17 (10-03)

Approved for use through 07/31/2006. OMB 0651-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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FEE TRANSMITTAL for FY 2004

Effective 10/01/2003. Patent fees are subject to annual revision.

☒ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 130

Complete if Known

Application Number	10/625,434
Filing Date	23 JULY, 2003
First Named Inventor	SCHELLER, Gregg, et
Examiner Name	UNKNOWN
Art Unit	UNKNOWN
Attorney Docket No.	

METHOD OF PAYMENT (check all that apply)☒ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None☐ Deposit Account:Deposit
Account
Number
Deposit
Account
Name

The Director is authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☐ Credit any overpayments☐ Charge any additional fee(s) or any underpayment of fee(s)☐ Charge fee(s) indicated below, except for the filing fee
to the above-identified deposit account.**FEE CALCULATION****1. BASIC FILING FEE**

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1001	770	2001	385	Utility filing fee	
1002	340	2002	170	Design filing fee	
1003	530	2003	265	Plant filing fee	
1004	770	2004	385	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	

SUBTOTAL (1) (\$)

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

		Extra Claims	Fee from below	Fee Paid
Total Claims		-20** =	X	
Independent Claims		-3** =	X	
Multiple Dependent				

Large Entity		Small Entity		Fee Description
Fee Code	Fee (\$)	Fee Code	Fee (\$)	
1202	18	2202	9	Claims in excess of 20
1201	86	2201	43	Independent claims in excess of 3
1203	290	2203	145	Multiple dependent claim, if not paid
1204	86	2204	43	** Reissue independent claims over original patent
1205	18	2205	9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$)

**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)**3. ADDITIONAL FEES**

Large Entity Small Entity

Fee Code	Fee (\$)	Fee Code	Fee (\$)	Fee Description	Fee Paid
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for <i>ex parte</i> reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	420	2252	210	Extension for reply within second month	
1253	950	2253	475	Extension for reply within third month	
1254	1,480	2254	740	Extension for reply within fourth month	
1255	2,010	2255	1,005	Extension for reply within fifth month	
1401	330	2401	165	Notice of Appeal	
1402	330	2402	165	Filing a brief in support of an appeal	
1403	290	2403	145	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	
1453	1,330	2453	665	Petition to revive - unintentional	
1501	1,330	2501	665	Utility issue fee (or reissue)	
1502	480	2502	240	Design issue fee	
1503	640	2503	320	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	130
1807	50	1807	50	Processing fee under 37 CFR 1.17(q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	770	2809	385	Filing a submission after final rejection (37 CFR 1.129(a))	
1810	770	2810	385	For each additional invention to be examined (37 CFR 1.129(b))	
1801	770	2801	385	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	

Other fee (specify)

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$) 130

SUBMITTED BY

(Complete if applicable)

Name (Print/Type)	Kevin L. Klug	Registration No. (Attorney/Agent)	38,756	Telephone	314-849-2273
Signature		Date	1/19/04		

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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